



UNIVERSITY OF
TORONTO
FACULTY OF LAW



THE THEORY OF INTERNATIONAL LAW
INTENSIVE COURSE

FALL 2008

Visiting Professor Andrew Guzman
Faculty of Law
University of Toronto

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INTERNATIONAL RELATIONS & INTERNATIONAL LAW

Fall 2008

Professor Andrew Guzman

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Syllabus

The theory of international law is in the midst of a profound revision. Traditional theories are being pushed out by more contemporary approaches, many of which have emerged from the social sciences. This seminar will engage, evaluate, and assess these modern theories of international law. We will examine the work of legal scholars, but we will also look to political science and (to a lesser extent) to economics to see how those disciplines inform the study of international law. Over the course of the seminar we will examine a host of fundamental questions in international law, including, for example, why states enter into international agreements, why states comply with international law (if they do), and what kind of state conduct is more or less likely to be influenced by international law.

Required readings for the course will be taken from ANDREW GUZMAN, *HOW INTERNATIONAL LAW WORKS* as well as materials distributed through a course packet. Because this is a seminar in which exchanges among students is a large part of the learning process, attendance at each meeting is mandatory.

Grading

Grades will be determined on the basis of the following:

Seminar Paper: 70%

Participation: 30%

Meeting Place and Times

The class will meet in the Flavelle Dining Room at the following times:

Mon. Sept. 22: 12:10 – 2:00

Tues Sept. 23: 10:30 - 1:30

Wed. Sept. 24: 12:10 – 2:00

Thurs. Sept. 25: 1:30 – 4:00

Mon. Sept. 29: 12:10 – 2:00

Thur. Oct. 02: 11:00 – 2:00

Readings

Class 1

Introduction

- A. Thucydides, *The History of the Peloponnesian War* (Penguin, 1954), Read the Melian Dialogue

Traditional Approaches to IL

- B. William R. Slomanson, *Fundamental Perspectives on International Law* (Wadsworth, 4th ed., 2003): 42-44
- D. Anthony D'Amato, "Is International Law Really 'Law'?" *Northwestern Law Review* 79 (1985): 1293-1314
- F. Rosalyn Higgins, *Problems and Process: International Law and How We Use It* (Oxford 1995): Read 1-38
- G. Louis Henkin, *International Law: Politics and Values* (Springer, 1995): Read 45-57

Introduction to Game Theoretic Approaches

- C. Kenneth W. Abbott, "Modern International Relations Theory: A Prospectus for International Lawyers," *Yale Journal of International Law* 14 (1989): 354-374

Class 2

Legitimacy

- Thomas Franck, *Fairness in International Law and Institutions* (Oxford, 1998): 25-46

Managerialism

- B. Abram Chayes and Antonia Handler Chayes, "On Compliance," *International Organization* 47 (Spring, 1993): 175-205

Realism

- A. Hans Morgenthau, "The Main Problems of International Law" (Ch. 18), *Politics Among Nations* (McGraw-Hill, 6th rev. ed., 1985): 293-327
- B. Joseph M. Grieco, "Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism," *International Organization* 42 (Summer, 1988): 485-507
- C. Hedley Bull, "Order versus Justice in World Politics" (Ch. 4) *The Anarchical Society* (Palgrave, 1977): 127-42 (*optional*)

Class 3

Constructivism

- A. Alexander Wendt, "Anarchy is What States Make of It: The Social Construction of Power Politics," *International Organization* 46 (Spring, 1992): 391-425
- B. Harold H. Koh, "Why Do Nations Obey International Law?" *Yale Law Journal* 106 (1997): 2645-2659

Liberal Theory

- A. Andrew Moravcsik, "Taking Preferences Seriously: A Liberal Theory of International Politics," *International Organization* 51 (Autumn, 1997): 516-533

Institutionalism

- A. Robert O. Keohane, “Rational-Choice and Functional Explanations,” and “A Functional Theory of International Regimes,” (Ch. 5, 6) *After Hegemony* (Princeton, 1984): 85-109
- B. Guzman, Chapter 1, 3-24

Class 4

Reputation

- A. Guzman, Chapter 2-3, 23-119
- B. George W. Downs & Michael A. Jones, “Reputation, Compliance, and International Law,” *Journal of Legal Studies* 31 (January 2002): S95-S114
- C. Anne E. Sartori, “The Might of the Pen: A Reputational Theory of Communication in International Disputes,” *International Organization* 56 (Winter, 2002): 121-149 (*optional*)

Class 5

International Agreements

- A. Guzman, Chapter 4, 119-183
- B. Kal Raustiala, “Form and Substance in International Agreements,” *American Journal of International Law* 99 (2005): 581-614 (*optional*)

Customary International Law & Treaties

- A. Jack Goldsmith and Eric Posner, Ch. 1, *The Limits of International Law* (Oxford, 2005): 23-48; (*48-54 is optional*)
- B. David Golove, “Leaving Customary International Where It Is,” *Ga. J. Int’l & Comp. L.* 34 (2006): 350-376.
- C. Guzman, Chapter 5, 183-210

Class 6

Application to Human Rights

- A. Hathaway & Koh, 205-242
- B. Goldsmith & Posner, *The Limits of International Law* 107-134

